

---

**UTAH LABOR COMMISSION**

**JESSE M. MARTINEZ,**

**Petitioner,**

**vs.**

**DAKOTA MILLS & CABINETS and  
WORKERS COMPENSATION FUND,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 06-0972**

---

Jesse M. Martinez asks the Utah Labor Commission to review Administrative Law Judge Hann's denial of Ms. Martinez' claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Ms. Martinez claims workers' compensation benefits for back and neck injuries allegedly caused by two separate work accidents at Dakota Mills & Cabinets ("Dakota"). Judge Hann held an evidentiary hearing and then denied Ms. Martinez's claims for lack of proof that the accidents medically caused Ms. Martinez's injuries.

In her motion for review, Ms. Martinez argues that Judge Hann should have appointed a medical panel to consider the issue of medical causation.

**FINDINGS OF FACT**

The Commission adopts Judge Hann's findings of facts, summarized as follows.

Ms. Martinez has a long history of chronic degenerative back problems, including lumbar fusion surgery that occurred in 1993.

On March 24, 2005, while Ms. Martinez was working at Dakota, a stand holding 15 cabinet doors began to tip over. Ms. Martinez used her arms to brace the stand and prevent it from falling. Afterwards, she experienced pain and was diagnosed with acute low back strain and sciatica. She received conservative medical care and reached medical stability on September 9, 2005.

On November 29, 2005, Ms. Martinez fell backwards off a box approximately one foot high. She landed on her buttocks and hit her head and back against a stack of doors. She received

**ORDER AFFIRMING ALJ'S DECISION**  
**JESSE M. MARTINEZ**  
**PAGE 2 OF 3**

medical treatment for pain in her neck, low back and legs. This treatment included cervical fusion surgery and a repeat of the lumbar surgery originally performed in 1993.

None of Ms. Martinez's treating physicians have expressed the opinion that Ms. Martinez's work accidents caused her current medical problems. To the contrary, Dr. Marble, Dakota's medical consultant, has opined that Ms. Martinez's problems are due to chronic preexisting spinal conditions and do not result from her accidents at Dakota.

**DISCUSSION AND CONCLUSION OF LAW**

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers to pay workers' compensation benefits to employees injured by accidents "arising out of and in the course of employment." Injuries are considered to "arise out of" employment if the work is both the "legal cause" and the "medical cause" of injury. *Allen v. Industrial Commission*, 729 P.2d 15 (Utah 1986). It is the claimant's burden to establish both these elements of causation. In this case it is the issue of medical causation that is in dispute.

Although it is Ms. Martinez's burden to prove that her work accidents are the medical cause of her current back problems, she has not submitted any medical opinion to that effect. The only medical opinion addressing that question comes from Dr. Marble, and he has concluded that there is **no** causal connection between Ms. Martinez's work accidents and her current problems.

In the face of this lack of medical evidence to support her claim, Ms. Martinez argues that the Commission should exercise its discretion under §34A-2-601 of the Act to appoint its own panel of experts to evaluate the question of medical causation. However, the Commission's Rule R602-2-2 provides that medical panels will be used in those cases "where one or more significant medical issues may be involved. Generally, **a significant medical issue must be shown by conflicting medical reports.**" (Emphasis added.) In other words, the Commission appoints medical panels to resolve medical disputes, not to create them.

The Commission has carefully considered the medical record in this case and finds no conflict among the doctor's opinions. Specifically, Ms. Martinez's treating physicians explain her diagnosis and treatment but do not address the issue of medical causation. Consequently, those opinions do not conflict with Dr. Marble's opinion that no medical causal connection exists between Ms. Martinez's accidents and her current problems. Based on this medical record, the Commission concurs with Judge Hann's determination that no medical panel was warranted and that Ms. Martinez's claims should be denied for lack of proof of medical causation.

**ORDER AFFRIMING ALJ'S DECISION**  
**JESSE M. MARTINEZ**  
**PAGE 3 OF 3**

**ORDER**

The Commission affirms Judge Hann's decision. It is so ordered.

Dated this 22<sup>nd</sup> day of February, 2008.

---

Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.